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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 G & G CLOSED CIRCUIT EVENTS, LLC,
12 Plaintiff,
13 v.
14 OSCAR DORADO AGUILAR,
15 Defendant.

Case No.: 1:20-cv-01745 JLT BAM

ORDER STRIKING OSCAR DORADO
AGUILAR'S ANSWER; DIRECTING THE CLERK
OF COURT TO ENTER DEFAULT AGAINST
OSCAR DORADO AGUILAR; AND VACATING
JURY TRIAL

(Doc. 15)

17 On December 9, 2020, Plaintiff G & G Closed Circuit Events, LLC filed a complaint alleging
18 the unauthorized interception, conversion, and transmission of Plaintiff's television program. (Doc.
19 1.) Defendant Oscar Dorado Aguilar answered the complaint on March 15, 2021. (Doc. 15.) On
20 December 5, 2022, Plaintiff and Defendant appeared at a scheduling conference on this matter, and
21 pretrial and trial dates were set. (Docs. 37, 38.) Defendant filed a motion for summary judgment that
22 was subsequently denied. (Docs. 39, 43.) On May 22, 2024, the Court ordered the parties file a joint
23 pretrial statement which complied with the requirements of the Court's Local Rule 281. (Doc. 68.)
24 On August 26, 2024, the Court conducted the final pretrial conference and Defendant Oscar Dorado
25 Aguilar failed to appear. Following this conference, on August 27, 2024, the Court issued an order
26 (the "OSC") directing Defendant to show cause, on or before September 17, 2024, why its answer
27 should not be stricken and a default judgment entered for failure to comply with the pretrial
28 requirements. (Doc. 72.) Defendant has failed to file a response to the OSC, and accordingly,

1 Defendant's answer will be stricken and a default judgment entered against Defendant.

2 The Court has inherent power to achieve the orderly and expeditious disposition of cases by
 3 entering judgment against a party for failure to prosecute and the failure to comply with a court order.
 4 *See Link v. Wabash R.R.*, 370 U.S. 626, 629–30 (1962); Fed. R. Civ. P. 41(b). In addition, Federal
 5 Rule of Civil Procedure 37 authorizes the Court to strike a party's pleading or render a default
 6 judgment against it when the party fails to comply with a court order. Fed. R. Civ. P. 37(b)(2); *see*
 7 *also Adriana Intern. Corp. v. Theoren*, 913 F.2d 1406, 1412 (9th Cir. 1990) (finding violations of
 8 court orders sufficient to support a default sanction). Because a default sanction is a harsh penalty,
 9 district courts must consider five factors before declaring a default: “(1) the public’s interest in
 10 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice
 11 to the other party; (4) the public policy favoring the disposition of cases on their merits; and (5) the
 12 availability of less drastic sanctions.” *Adriana Intern. Corp.*, 913 F.2d at 1412.

13 The Court finds that the factors militate in favor of striking Defendant's answer. The public's
 14 interest in expeditious resolution of litigation and the Court's need to manage its docket weigh heavily
 15 in favor of striking Defendant's answer and entering judgment against him. Further, Defendant
 16 violated this Court's May 22, 2024 Scheduling Order when he failed to file a pretrial conference
 17 statement or appear at the pretrial conference. (Doc. 68 (warning the parties that “the failure to file a
 18 pretrial statement may result in the imposition of appropriate sanctions, which may include the
 19 preclusion of any and all witnesses, dismissal of the action, or entry of default”)). In addition,
 20 Defendant failed to show cause in writing why sanctions should not be imposed for that conduct.
 21 Defendant is undeniably aware of this action as Defendant, through counsel who has since withdrawn,
 22 answered Plaintiff's complaint, filed a motion for summary judgment that was subsequently denied,
 23 and has been successfully served with the most recent Orders of this Court. Defendant's failure to
 24 participate in this case is prejudicial to Plaintiff as it precludes Plaintiff from obtaining a decision on
 25 the merits. While the public policy favoring disposition of the case on its merits will always cut
 26 against entry of default, less drastic sanctions are simply not available. Therefore, the other four
 27 factors support striking Defendant's answer and entering default.
 28

ORDER

Accordingly, the Court **ORDERS:**

1. The answer filed by Defendant Oscar Dorado Aguilar (Doc. 15) is **STRICKEN**.
 2. The Clerk of Court is directed to enter **DEFAULT** against Oscar Dorado Aguilar.
 3. The jury trial set for 11/5/2024 is **VACATED**.
 4. Plaintiff **SHALL** file a motion for default judgment **no later than December 6, 2024**.

IT IS SO ORDERED.

Dated: October 4, 2024

Jennifer L. Thurston
UNITED STATES DISTRICT JUDGE